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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,440	03/12/2004	Marc Shepard	MSFT122465	6241
38991 7590 06/27/2008 CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347				
EXAMINER VY, HUNG T				
ART UNIT 2163		PAPER NUMBER		
MAIL DATE 06/27/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/799,440

Applicant(s)

SHEPARD ET AL.

Examiner

HUNG T. VY

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. As of entry of the amendment filed on 03/12/2008, claims 1-25 are pending in this application. Upon reconsideration, Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection. Therefore, the previous office action had been withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

a. Claims 1-6, and 14-18 are rejected under 35 U. S. C. § 102 (e) as being anticipated by O'Farrell et al. (O'Farrell) (U.S. pub No. 2004/0224674 A1).

Regarding claims 1 and 14, O'Farrell discloses a method for communicating update metadata (*i.e.*, *"the data records comprising the application changes and data updates are specified in terms of the metadata for the mobile application"* (0143)) corresponding to a software update to a client computer, (*i.e.*, *"the application changes and data updates"* (0143)) comprising:

receiving a synchronization request from a client computer for information

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regarding a software update corresponding to a software product (*i.e.*, "When the mobile device user selects the **"update all"** display tab 404, the device initiates an Upload operation, which comprises a **synchronization sequence of tasks** performed by the mobile client and the application server (0141)) ; and

responsive to a synchronization request (*i.e.*, "When the mobile device user selects the **"update all"** display tab 404, the device initiates an Upload operation, which comprises a **synchronization sequence of tasks** performed by the mobile client and the application server (0141));

determining whether a software update is available for the software product (*i.e.*, "determining if an **update package is available** for the installed application, and updating the mobile client device" (abstract))

generating a tag-based data structure storing metadata corresponding to a software update available (*i.e.*, "the data records comprising the application changes and data updates are specified in terms of the **metadata for the mobile application**" (0143) and fig. 3 shows the **metadata 312** that specifies to the **application server 314** how data from the **different** enterprise data sources) for installation on the client compute (*i.e.*, "mobile client 316" (0074) or fig. 3) , the tag-based data structure (*i.e.*, "XML" (0061) or (0185)) comprising:

tag-based identifier element storing metadata that uniquely identifies the software update (*i.e.*, "**metadata that identifies one or more applications** installed at the mobile client device" (0012) or (0185), (0198)); and

at least one additional element of the following tag-based elements:

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a localized property element for storing language specific information directed to a computer user relating to the software update (*i.e.*, "the metadata, **the data definition** from the enterprise data sources **is mapped to views** that are used to create the data store on the client and store the relevant business data on the mobile client from the enterprise data sources in a relational database" (0076) or "the customer Business Data is first converted by the connectors into **an appropriate data format** for storage into the relational database of the mobile client" (0187)), and

additional, O'Farrell discloses extra,

a relationship element storing metadata identifying relationship the software update has to other software updates (*i.e.*, "metadata that identifies enterprise data sources for the requested data and **specifies a relational correspondence** between the requested data" (0189))

a rule element storing rules for determine the applicability of the software update to client computer (*i.e.*, "the downloaded information will include **metadata specifies** business Objects, and corresponding **business rules** and specification for business process" (0188)),

a file element identifying software update's payload and information to the software update's payload (*i.e.*, "**The balancing between system resource and requirements is achieved by selecting the schema, data, and files as describe above in accordance with the available resources and requirement**" (0192)), and

providing the tag-based data structure to the client computer (*i.e.*, when a mobile client receives an application, **it receives metadata** and associated data files that make up the mobile application...returned to the device as XML using SOAP. The client device then

parses the returned XML and updates the necessary data on the client data" (0185) or (0143)).

Regarding claims 2 and 15, O'Farrell discloses the tab-based data structure is an XML data structure (0061, 0198)

Regarding claim 3, O'Farrell discloses wherein the tag-based elements in the tag-based data structure are arranged in the tag-based data structure such that the identifier element is located in the tag-based data structure before property element (i.e., "metadata that **identifiers one or more applications installed application**" (0012) or "metadata specifies **business object and corresponding business rules**" (0188) and Examiner indicated that the claim 1 requires only one more additional element after "identifier element", therefore, "business rules" after "business object" or "identifier application" as reference)

Regarding claims 4 and 16, O'Farrell discloses wherein identifies element includes a unique identifier that uniquely identifies the software update, and revision number associated with the software update (i.e., e., "The Application server can detect conflicts in one of three way: **Revision**, Date/time stamp, or Manual" (0100) or "**Revision** is a setting where a **specific field or property is identified** in a single record source as **revised** and the application server will use this to determine whether data has been changed" (0101)).

Regarding claims 5 and 17, O'Farrell discloses the relationship element includes prerequisite information that identifies another software update that much installed before the identifier software update is installed (i.e. "The download information will include metadata that specifies Business Object and corresponding business rules and specification for business process, as **exemplified by the ForceFlows, FieldFlows,**

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and FormFlows described above" (0188) and Examiner indicates that the application is downloaded and installed by order of "Queue" of "filedflows" or formflows", etc. and "filters allow characteristic and conditions to be placed onto the data "hen reference in the mobile application" (0133)).

Regarding claims 6 and 18, O'Farrell discloses wherein the relationship element further includes information identifying a plurality of software updates joined together with Boolean operator into a logical statement, such that the evaluation of the logical statement determines the suitability of the identified software update for installation on the client computer (*i.e.*, "These components can be used to specify the configuration (**logical architecture**) of any client application that is constructed" (0042) or "specification for **all logical layers** (e.g., Business Objects, Views, filters, and Connectors) are defined and maintained within the **metadata**" (0044) or "an update to the task data is committed to the task business object in a request from the application...ensuring data integrity and consistency" (0058) or "downloading the update package to the mobile client device" (0012) and Examiner indicates that the "package" includes many update data joined together in the "package").

- b. Claims 1-6, and 15-18 are rejected under 35 U. S. C. § 102 (e) as being anticipated by Rabbers et al. (U.S. pub No. 2007/0094345 A1).

Regarding claims 1-6, and 15-18, Rabbers et al. discloses a method for communicating update metadata (609) corresponding to a software update to a client computer, (120) comprising:

receiving a synchronization request from a client computer for information regarding a software update corresponding to a software product (0035); and

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responsive to a synchronization request (0035);

determining whether a software update is available for the software product (0061-0062)

generating a tag-based data structure storing metadata corresponding to a software update available (0064) comprising:

tag-based identifier element storing metadata that uniquely identifies the software update (0050 or claim 1); and

at least one additional element of the following tag-based elements:

a localized property element for storing language specific information directed to a computer user relating to the software update (*abstract*, *0070*), and

additional, Rabbers. discloses extra,

a relationship element storing metadata identifying relationship the software update has to other software updates (0064)

Claim Rejections - 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 7-8, 10, 19-20, and 22 are rejected under 35 U.S.C. 103 (a) as being unpatentable over O'Farrell et al. (O'Farrell) (U.S. pub No. 2004/0224674 A1) in view of Fox et al. (U.S. Pub. No. 2003/0018964).

With respect to claims 7-8 and 19-20, O'Farrell discloses all limitations recited in claim 3 and 14 except the plurality of software updates are jointed together with Boolean operator into a logical statement, such the evaluation of the logical statement determines the suitability of the bundled software updates for installation on a client computer. However, Fox et al. discloses the plurality of software updates are jointed together with Boolean operator into a logical statement, such the evaluation of the logical statement determines the suitability of the bundled software updates for installation on a client computer (*i.e.*, "*leading to problem is delivering bundle description along with the corresponding software bundle*" (0012 and 0066)). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify O'Farrell's invention by adding the code for relationship for bundle information and the code for information of relationship element of a plurality software update that must be installed bundle in order to have facilitate sufficient and effective update of firmware and/or software packages in update or distribution environment for the stated purpose has been well known in the art as evidenced by the teaching of Fox et al (Fox et al., 0013-14).

With respect to claims 10 and 22, Fox et al. discloses wherein the relationship element includes prerequisite information (*i.e.*, *there may also be a number of prerequisites*" (0010, 0053)) (with motivation on claim 7-8 and 19-20).

5. Claims 9 and 21 are rejected under 35 U.S.C. 103 (a) as being unpatentable over O'Farrell et al. (O'Farrell) (U.S. pub No. 2004/0224674 A1) in view of Cheah et al. (U.S. Pub. No. 2004/0015939).

With respect to claims 9 and 21, O'Farrell discloses all limitations recited in claim 3 and 14 except supersedence information that identifies at least one other software update that is superseded by the identified software update. However, Cheah et al. discloses supersedence information that identifies at least one other software update that is superseded by the identified software update (*i.e.*, updated version of the software module that was created after extensive testing of the device) and, therefore, supercedes the version of the data that is in the mask ROM 1" (0020)). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify O'Farrell's invention by adding the code for relationship for supercedence information in order to have facilitate efficient and effective update of firmware and/or software packages in update or distribution environment with time saving for the stated purpose has been well known in the art as evidenced by the teaching of Cheah et al (Fox et al., 0005).

6. Claims 11-13 and 23-25 are rejected under 35 U.S.C. 103 (a) as being unpatentable over O'Farrell et al. (O'Farrell) (U.S. pub No. 2004/0224674 A1) in view of Moshir et al. (U.S. Pub. No. 2002/0100036).

With respect to claims 11 and 23, O'Farrell discloses all limitations recited in claim 3 and 14 except patching existing files on a client computer. However, Moshir et al. discloses patching existing files on a client computer (*i.e.*, "If a problem is discovered in an existing piece of software, then a fix or patch can be installed " (0053)). It

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would have been obvious to one of ordinary skill in the art at the time the invention was made to modify O'Farrell's invention by adding the code for patching existing files on a client computer in order to have different way to update the software to reduce demands on human administrator for the stated purpose has been well known in the art as evidenced by the teaching of Moshir et al (Moshir et al., 0019).

7. With respect to claims 12-13 and 24-25, Moshir et al. discloses wherein replacing existing files on client computer (*i.e.*, "*replacing*" the software" (0053)) (with motivation on claim 11 and 23)

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung T. Vy whose telephone number is 571-2721954. The examiner can normally be reached on 8.30am - 5.30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571 272 1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hung T Vy/

Primary Examiner, Art Unit 2163

June 21, 2008